

**RECEIVED**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

MAY 17 2005

United States of America ex rel.

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURTWALTER EDWARDS K-82688

(Full name and prison number)

(Include name under which convicted)

PETITIONER

vs.

✓ Kenneth R. Briley(Warden, Superintendent, or authorized  
person having custody of petitioner)

RESPONDENT, and

(Fill in the following blank only if judgment  
attacked imposes a sentence to commence  
in the future)

ATTORNEY GENERAL OF THE STATE OF

(State where judgment entered)

CASE NO:

(Supplied by Clerk of this Court)

**05C 2921**

JUDGE BUCKLO

MAGISTRATE JUDGE KEYS

Case Number of State Court Conviction:

99 CR 1847

## PETITION FOR WRIT OF HABEAS CORPUS -- PERSON IN STATE CUSTODY

1. Name and location of court where conviction entered: Circuit Court of  
Cook County
2. Date of judgment of conviction: May 22, 2000
3. Offense(s) of which petitioner was convicted (list all counts with indictment numbers, if known)  
First Degree Murder
4. Sentence(s) imposed: 28 years
5. What was your plea? (Check one)
 

(A) Not guilty	( <input checked="" type="checkbox"/> )
(B) Guilty	( <input type="checkbox"/> )
(C) Nolo contendere	( <input type="checkbox"/> )

If you pleaded guilty to one count or indictment and not guilty to another count or indictment, give details:

PART I -- TRIAL AND DIRECT REVIEW

1. Kind of trial: (Check one): Jury (X) Judge only ( )
2. Did you testify at trial? YES ( ) NO (X)
3. Did you appeal from the conviction or the sentence imposed? YES (X) NO ( )

(A) If you appealed, give the

- (1) Name of court: Appellate Court of Illinois
- (2) Result: conviction affirmed
- (3) Date of ruling: August 1, 2001
- (4) Issues raised: Whether the police acted illegally to obtain the juvenile's confession where Edward's was not given an opportunity to meaningful consult with his grandmother who waited at the station,

(B) If you did not appeal, explain briefly why not:

\_\_\_\_\_

4. Did you appeal, or seek leave to appeal, to the highest state court? YES (X) NO ( )

(A) If yes, give the

- (1) Result: Denied
- (2) Date of ruling: December 5, 2001
- (3) Issues raised: Whether the police acted illegally to obtain the juvenile's confession where Edward's was not given an opportunity to meaningful consult with his grandmother who waited at the station,

(B) If no, why not: \_\_\_\_\_

5. Did you petition the United States Supreme Court for a writ of *certiorari*? Yes ( ) No (X)

If yes, give (A) date of petition: \_\_\_\_\_ (B) date *certiorari* was denied: \_\_\_\_\_

**PART II -- COLLATERAL PROCEEDINGS**

1. With respect to this conviction or sentence, have you filed a post-conviction petition in state court?

YES ( ☒ ) NO ( ☐ )

With respect to *each* post-conviction petition give the following information (use additional sheets if necessary):

A. Name of court: Circuit Court of Cook County

B. Date of filing: April 17, 2002

C. Issues raised: Petitioner's Federally Protected Constitutional Rights  
under the Fourth and Fifth Amendments of the United States Constitution  
was violated

D. Did you receive an evidentiary hearing on your petition? YES ( ☐ ) NO ( ☒ )

E. What was the court's ruling? Denied

F. Date of court's ruling: July 10, 2002

G. Did you appeal from the ruling on your petition? YES ( ☒ ) NO ( ☐ )

H. (a) If yes, (1) what was the result? Denied

(2) date of decision: January 30, 2004

(b) If no, explain briefly why not: \_\_\_\_\_

I. Did you appeal, or seek leave to appeal this decision to the highest state court?

YES ( ☒ ) NO ( ☐ )

(a) If yes, (1) what was the result? Denied

(2) date of decision: \_\_\_\_\_

(b) If no, explain briefly why not: \_\_\_\_\_

#### **TRIAL AND DIRECT REVIEW**

(4) Issues raised:

and where official police reports corroborate Edwards' claim that police acted illegally to threaten, coerce, and question him while he was held alone at the station?

#### **COLLATERAL PROCEEDINGS**

Issues raised:

(2) Petitioner contends his Federally Protected Constitutional Rights To Due Process Of Law was violated where

(3) Petitioner's Federally Protected Constitutional Rights To Due Process Of Law Under The Fifth And Fourteenth Amendments Of The United States Constitution was violated.

2. With respect to this conviction or sentence, have you filed a petition in a state court using any other form of post-conviction procedure, such as *coram nobis* or habeas corpus? YES ( ) NO (X)

A. If yes, give the following information with respect to each proceeding (use separate sheets if necessary):

1. Nature of proceeding \_\_\_\_\_
2. Date petition filed \_\_\_\_\_
3. Ruling on the petition \_\_\_\_\_
3. Date of ruling \_\_\_\_\_
4. If you appealed, what was the ruling on appeal? \_\_\_\_\_
5. Date of ruling on appeal \_\_\_\_\_
6. If there was a further appeal, what was the ruling? \_\_\_\_\_
7. Date of ruling on appeal \_\_\_\_\_

3. With respect to this conviction or sentence, have you filed a previous petition for habeas corpus in federal court? YES ( ) NO (X)

A. If yes, give name of court, case title and case number: \_\_\_\_\_

B. Did the court rule on your petition? If so, state

(1) Ruling: \_\_\_\_\_

(2) Date: \_\_\_\_\_

4. WITH RESPECT TO THIS CONVICTION OR SENTENCE, ARE THERE LEGAL PROCEEDINGS PENDING IN ANY COURT, OTHER THAN THIS PETITION?

YES ( ) NO (X)

If yes, explain: \_\_\_\_\_

**PART III -- PETITIONER'S CLAIMS**

1. State briefly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. You may attach additional pages stating additional grounds and supporting facts. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds later.

**BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES WITH RESPECT TO EACH GROUND FOR RELIEF ASSERTED.**

(A) Ground one WHETHER THE POLICE ACTED ILLEGALLY TO OBTAIN THE JUVENILE'S  
Supporting facts (tell your story briefly without citing cases or law):  
CONFESSION WHERE EDWARD'S WAS NOT GIVEN AN OPPORTUNITY TO MEANINGFUL  
CONSULT WITH HIS GRANDMOTHER WHO WAITED AT HTE STATION, AND WHERE

OFFICIAL POLICE REPORTS CORROBORATE EDWARDS' CLAIM THAT POLICE ACTED  
ILLEGALLY TO THREATEN, COERCE, AND QUESTION HIM WHILE HE WAS HELD  
ALONE AT THE STATION?

Walter Edward's was in ninth grade and 15 years old. He was handcuffed  
taken from his home and locked alone in a room at the police station  
for eight hours. Edwards' never met with grandmother until after

(B) Ground two DID THE CIRCUIT COURT JUDGE AND APPELLATE COURT ABUSE HIS  
Supporting facts:  
DISCRETION WHEN HE SUMMARILY DISMISSED PRO SE PETITIONER'S REQUEST  
FOR POST-CONVICTION RELIEF AS "FRIVOLOUS AND AS BEING PATENTLY  
WITHOUT MERIT."

Even a cursory review of his original petition clearly reflects  
that petitioner substantially stated his claims, provided evidentiary  
support, and presented a clear and concise legal argument to support  
submitted along with his petition, the court's below abused its  
discretion by summarily dismissing petitioner's claims at the first

**GROUND ONE:**

his questioning. (who waited at the station), an attorney or a youth officer to discuss his predicament.

In support of its claim that Edward's confession was "knowing and voluntary" the State introduced the testimony of two Chicago Police Officers, Lawrence Lynch and Ray Madigan. Officer Madigan was present during the evening questioning of Edward's but he did not know of Edward's treatment by police during the eight-hours after his arrest. (A33) He testified that he "was not aware" of any questioning of Edwards by police before the A.S.A and grandmother were present. (A29) He denied making any threats or promises to Edwards. (A33)

Officer Lynch denied that any police officer questioned Edwards during the eight-hours after his arrest. But this claim was contradicted by the Official Police Report which stated that "Police questioned Edwards before Felony Review was even notified." (A-23, see also argument A-82) Officer Lynch conceded that his testimony conflicted with the official police report. Edwards never met with a youth officer. Before being interviewed by the A.S.A, Edwards did not ever meet privately with his grandmother with an attorney or with any adult.

**GROUND TWO:**

stage of post-conviction proceedings, on grounds that petition is frivolous or patently without merit, petition need only contain a statement which presents gist of a meritorious constitutional violation.

- (C) Ground three WHETHER THE CIRCUIT AND APPELLATE COURT ABUSE ITS  
Supporting facts:  
DISCRETION OVERLOOKING THE PERJURY TESTIMONY OF ALICE LARUE.

The petitioner here was offering prove of perjured testimony  
that both courts overlooked and still denied petition. Under  
Direct Examination by Steve Rosenblum A.S.A, Larue testified  
that she was "Forty" years old, Larue went on to state she lived  
in the area in which the homicide occurred, "all my life," and  
was very familiar with gangs in that area of the city. Thereby  
creating the inference to the triers of fact that she had known and

- (D) Ground four WHETHER THE COURT ABUSE ITS DISCRETION IN NOT SUPPRESSING  
Supporting facts:  
THE PETITIONER'S STATEMENT, DUE TO IT COERCIVE AND PROMISES BEING  
MADE AND BEING QUESTION WITHOUT AN ADULT OR YOUTH OFFICER BEING PRESENT.

The test for the voluntariness of a confession is whether, under  
the totality of the circumstances the statement was made freely,  
voluntarily and without compulsion or inducement, or whether  
the defendant's will was overcome. In cases involving juveniles,  
key factors that must be considered include the time of day  
of the questioning, and the presence of a parent or other concerned

- 2 Have all grounds raised in this petition been presented to the highest court having jurisdiction?

YES (X) NO ( )

3. If you answered "NO" to question (16), state briefly what grounds were not so presented and why not:



**GROUND THREE:**

interacted with gangs and gangs members for a number of years, without pause, and over numerous defense objections and sidebars to the same.

Petitioner contends police reports and other pertinent documents reveals Larue was only (19) years old at the time of this testimony and the prosecution was privy to this information before her eventual testimony in this cause. Yet failed to correct the testimony of this witness in the presence of the triers of fact. Petitioner contends Larue also testified to being a Forty year Old individual in several other trials of co-defendants in case no. 99CR 1847, although the same was in fact false. Petitioner contends the State's position in allowing Larue to testify in this manner at several trials was done in an effort to bolster her credibility with jurors and lengthen he "life experience" with street gangs in the area in which she lived. It was also proffer in an effort to somewhat "certify" her as an expert of two gangs in particular, i.e. (Mafia Insanes and Renegade Vicelords).

Petitioner contends the testimony she gave as to her age at the time of his trial, which extended her "life experience" was false and in fact a form of perjury which violated the doctrine of the perjury law. In a certain case the Justices of the U.S. Supreme Court stated irrevocably that: "A lie is a lie, no matter what its' context and the District Attorney, as a representative of the people must correct what it knows to be false and elicit the truth," from its' witnesses.

GROUND THREE CON'T:

While many documents, (police reports, school records, etc.) clearly asserted that Larue was (19) years old at the time of defendant's trial, defendant contends the state allowed her to testify to being Forty to bolster their case against him and secure a conviction on false and perjured testimony. Petitioner contends the error of allowing said testimony to go unchallenged and failure of the State to correct the same was Prosecutorial Misconduct, violated Illinois Supreme Court Rule 615(a), and violated the "ethical duty" they had to ensure he recieved a fair and impartial trial. Petitioner contends the State's failure to correct the fraudulent testimony of Larue also violated the Plain Error Doctrines of the U.S. Supreme Court.

Petitioner contends the errors by the prosecution in this regard are magnified by the State's argument at sidebar held during the trial testimony of Alice Larue. The defense objected to the State's attempted to lay foundation through testimony which would erroneously certify Larue as an expert of street gangs in the area in which she lived. However, the statement of A.S.A. Rosenblum during the sidebar concedes to the fact he, as a State Attorney was attempting to lay a foundation that Larue's life experience clarified she knew of gangs and gangs members in the area in which she lived (C-32, C-33, C-34). Which advertently added nearly (20) years of life experience than she really had. This was error. Petitioner contends in an effort to qualm future argument by the State that any wrong stipulation of the actual age of Larue were "typos" or "mistakes," it should be noted the number of times she stated she was Forty, under

GROUND THREE con't:

oath and affirmation.

And the State's Attorney Office of Cook County has far too many agents and representatives thereof to be without documentation alluding to Larue's date of birth. Because her arrest records and Chicago Public Schools Records are basically public record. Which show she attended Bowen High School on the Southeast Side of Chicago. The record is also clear in the trial of Lawrence Coleman, held in the same year as defendant's Larue testified she was "Forty years old" and in custody of the Cook County Department Of Corrections on a charge of Possession Of A Controlled Substance. (Coleman is a co-defendant, same criminal case number).

Meaning because of her Possession case, the State had documents in their possession which revealed her true age, and did nothing to correct what she told another jury assembled to deliberate in this actual cause. This in and of itself shows the State's penchant for allowing this witness to testify in a false manner without providing correction to the same and lending to her another Twenty years of "life experience" which she had not attained. Petitioner contends all errors on behalf of the prosecution as Plain Errors, which violate Illinois Supreme Court Rule 615(a), and his 5th and 14th Amendments to Due Process of Law.

**GROUND FOUR:**

with the juveniles' welfare.

The record reveals that defendant was 15 years old at the time of his arrest and interrogation and that he had very little contact with the criminal justice system. Therefore, it is unlikely that defendant was sophisticated enough to protect his rights during a police interrogation, without the aid of counsel or a concerned adult. This here shows that a juvenile's prior minimal contact with police did not give him the sophistication or insight on how to conduct himself while being interrogated by the police in a criminal matter.

Here we deal with a person who is not equal to the police in knowledge and understand of the consequences of the questions and answers being recorded and who is unable to know to to get the benefit of his constitutional rights. In sum, courts must be particularly and vigilant in reviewing the circumstances of a minors confession. Since juveniles can easily become victims of the law. Here we got the State's Attorney and the police in there with the juvenile before his grandmother appear. Then he's telling his grandmother that the only way for him to go home is that she sign the court reported statement. There is no way he can come up with that on his own, so someone made a promise to him, for him to repeat that to his grandmother. The also testimony presented a credibility determination as to whether police threathned or made promises to Edwards. Edwards testified that he was questioned, threatened, and coerced by the police three times at the station after his arrest. Police witnesses deny this. However, the official Police Report corroborates

GROUND FOUR Con't:

the absence of counsel, to assure that the confession was not coerced, suggested or a product of fright or despair.

Upon taking a minor into custody, the Juvenile Court Act provides: "(1) A law enforcement officer who takes a minor into custody with a warrant shall immediately make a reasonable attempt to notify that parent or other person legally responsible for the minor's care or the person with whom the minor resides that the minor has been taken into custody and where he or she is being held; and the officer shall without unnecessary delay take the minor to the nearest juvenile police officer designated for such purposes in the county or venue or shall surrender the minor to a juvenile police officer in the city or village where the offense is alleged to have been committed.

Even though the police told the uncle that they was taking the minor to the station, and let the minor change clothes. The thing is that they didn't take him to the nearest juvenile officer. Not only that the uncle told them that he was calling the legal guardian which was the grandmother. Even when the grandmother arrived they still held her from seeing him until they question him the way they wanted to. During the first time it was said that they made her wait an hour and an half. Then it was said that that they made her wait four hours to see the youth. This is a classic case where police frustrated the mother or guardian in seeing the youth. Here they already say to the minor what they wanted to say to him before the grandmother enter the room. The grandmother said it was hard for her to pay attention, but the minor said that they said, "if he sign

GROUND FOUR Con't:

the statement he can go home, that's the only way for him to go home." "It sound like a promise to me by someone."

Generally a trial court's ruling on a motion to suppress evidence is subject to reversal only if manifestly erroneous. Let's examine the totality of circumstances to determine whether a statement was freely, without compulsion or inducement, considering the characteristics of the accused and the details of the interrogation. The given factors to be considered are the defendant's age, education, intelligence, experience, and physical condition, and length and intensity of the interrogation; the existence of threats, promises, or physical coercion, whether the defendant was informed of his constitutional rights.

Here they said the defendant is experienced in being arrested, just because he got a case three days before he got arrested, here you can tell he wasn't experienced because before he got a full chance to go through the system somebody sign him out. There is no per se right to consult with a parent before or during questioning but police conduct which frustrates a parent's attempt to confer with a juvenile is a significant factor in determining voluntariness of a juvenile's confession.

GROUND FIVE:

WHETHER THE PETITIONER WAS DENIED TRIAL AND APPELLATE COUNSEL DURING HIS RIGHT TO HIS SIXTH AMENDMENT AS A MATTER OF RIGHT OF AN APPEAL.

In bringing an appeal as of right from his conviction, a criminal defendant is attempting to demonstrate that the conviction, with its consequent drastic loss of liberty, a criminal appellant must face an adversary proceeding that-like at trial is governed by intricate rules, that to lay person would be hopelessly forbidding. An unrepresented appellant...is unable to protect the vital interests at stake...nominal representation on an appeal as right...does not suffice to render the proceedings constitutionally adequate; a party whose counsel is unable to provide effective representation, is in no better position than one who has no counsel at all.

A first appeal as of right therefore is not adjudicated in accord with due process of law if the appellant does not have effective assistance of an attorney. In the instant case the petitioner was denied the right to effective assistance of counsel. "Even if counsel will not-or-need not accompany the defendant on his entire appellate journey, they may not strip the client of...viable arguments before leaving the scene," because trial and appellate defense counsel abandoned a viable federal defense on direct appeal in a situation that can hardly be termed "tactful," the petitioner was deprived of effective assistance of counsel, trial and appellate counsel's failure to raise this on appeal created a procedural default that limited review for errors. Counsel's deficient conduct therefore worked to defendant's actual and substantial disadvantage, by limiting his ability

GROUND FIVE Con't:

to redress those issues that infected his entire trial with  
error constitutional dimensions.



#### PART IV -- REPRESENTATION

Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (A) At preliminary hearing N/A
- (B) At arraignment and plea N/A
- (C) At trial Bernard Sarley 26th & California
- (D) At sentencing Bernard Sarley 26th & California
- (E) On appeal Tim Leeming, Assit Public Defender, 69 West Washinton
- (F) In any post-conviction proceeding Ms Lynn Flanagan Wilson, Appellate Defender
- (G) Other (state): N/A

#### PART V -- FUTURE SENTENCE

Do you have any future sentence to serve following the sentence imposed by this conviction?

YES ( ) NO (X)

Name and location of the court which imposed the sentence: N/A

Date and length of sentence to be served in the future N/A

WHEREFORE, petitioner prays that the court grant petitioner all relief to which he may be entitled in this proceeding.

Signed on: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

[Signature]  
(Signature of petitioner)

182688  
(I.D. Number)

P.O. Box 112 Joliet IL 60434  
(Address)